

Title 10 NYCRR: Part 63.8(m) as of April 2008

(m) When the requirements of this section have been met, physicians and other diagnostic providers may disclose HIV-related information to physicians or other diagnostic providers of persons whom the protected individual may have exposed to HIV under the circumstances noted below that present a risk of transmission of HIV, except that disclosures related to exposures of emergency response employees governed by federal law shall continue to be governed by such law:

- (1) the incident must involve exposure to blood, semen, vaginal secretions, tissue or the following body fluids: cerebrospinal, amniotic, peritoneal, synovial, pericardial and pleural; and
- (2) a person has contact with the body substances, as noted in paragraph (1) above, of another to mucus membranes (e.g., eyes, nose, mouth), non-intact skin (e.g., open wound, skin with a dermatitis condition, abraded areas) or to the vascular system. Examples of such contact may include needlesticks; puncture wound injuries and direct saturation or permeation of non-intact skin by potentially infectious substances. These circumstances shall not include those delineated in subdivision (d) of section 63.10; and
- (3) the exposure incident occurred to staff, employees or volunteers in the performance of employment or professional duties:
 - (i) in a medical or dental office; or
 - (ii) in a facility regulated, authorized or supervised by the Department of Health, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, Office of Children and Family Services, Office of Alcoholism and Substance Abuse Services, Department of Correctional Services; or
 - (iii) involved an emergency response employee, paid or volunteer, including an emergency medical technician, a firefighter, a law enforcement officer (e.g., police, probation, parole officer) or local correctional officer or medical staff; and
- (4) an incident report documenting the details of the exposure, including witnesses to the incident, if any, is on record with supervisory staff; and
- (5) a request for disclosure of HIV status is made to the provider of the source or to the medical officer designated by the facility by the exposed person or by the provider of the exposed person as soon as possible after the alleged exposure if a decision relating to the initiation or continuation of post-exposure prophylactic treatment is being considered; and
- (6) the medical provider of the exposed person or the medical officer designated by the facility reviews, investigates and evaluates the incident and certifies that:
 - (i) the information is necessary for immediate decisions regarding initiation or continuation of post-exposure prophylactic treatment for the exposed person; and
 - (ii) the exposed person's status is either HIV negative or unknown and that if the person's status is unknown, the person has consented to an HIV test; and
 - (iii) if such test result becomes known as positive prior to the receipt of the source's HIV status, no disclosure of the source's HIV status will be made to the person; and
- (7) documentation of the request is placed in the medical record of the exposed person; and
- (8) if the provider of the source or the medical officer designated by the facility determines that a risk of transmission has occurred or is likely to have occurred in the reasonable exercise of his/her professional judgment, the provider or medical officer may release the HIV status of the source, if known. The provider or medical officer may consult with the municipal health

commissioner or district health officer to determine whether a risk of transmission exists. If consultation occurs, both the provider and the local health officer must be in agreement if the HIV information is to be disclosed. In the disclosure process the name of the source shall not be provided to the exposed person. Redislosure of the HIV status of the source is prohibited except when made in conformance with Public Health Law Article 21, Title III.